

TOMMY L. LYNN

IBLA 81-353

Decided November 17, 1981

Appeal from decision of Montana State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer. M 45274(ND).

Set aside and remanded.

1. Administrative Procedure: Adjudication -- Administrative Procedure: Administrative Review -- Administrative Procedure: Decisions -- Oil and Gas Leases: Applications: Filing

Although BLM may properly reject a noncompetitive oil and gas lease offer for failure to disclose other parties in interest pursuant to 43 CFR 3102.7 (1979), or because of a multiple filing in violation of 43 CFR 3112.5-2 (1979), such a decision must be supported by facts of record. In the absence of such evidentiary support, the Board will set aside the decision and remand the case to BLM for further consideration and preparation of a proper record.

APPEARANCES: Kemp Wilson, Esq., Billings, Montana, for appellant.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Tommy L. Lynn has appealed from a decision of the Montana State Office, Bureau of Land Management (BLM), dated January 13, 1981, rejecting his noncompetitive oil and gas lease offer, M 45274(ND). Appellant's drawing entry card was drawn with first priority for parcel MT 94 at a simultaneous oil and gas lease drawing held on December 11, 1979. 1/ BLM rejected appellant's lease offer because

1/ Because of the omission of a drawing entry card from the Dec. 11, 1979, drawing, a redrawing was held on Mar. 14, 1980. The priority established in the original drawing was not changed as a result of the redrawing.

an investigation of the filing by this office has shown: (1) that the offeror failed to disclose the fact that there was another party in interest in the offer at the time it was filed as required by 43 CFR 3102.7 [(1979)], and (2) that a multiple filing situation existed as defined in CFR 3112.5-2 [(1979)].

In his statement of reasons for appeal, appellant contends that the record available for inspection by him is "completely devoid of any evidence of violations of the leasing regulations which, if established, would disqualify him as the successful drawee." 2/ Appellant requests that the decision rejecting his lease offer be reversed and that the case be remanded to BLM "with instructions to issue an oil and gas lease" to him.

[1] We must agree with appellant that the record presently before us is devoid of any evidentiary support for BLM's decision to reject his oil and gas lease offer. Neither the nature of the "investigation," referred to in the decision, nor the results thereof are disclosed. There is simply not sufficient information on which to adjudicate the appeal.

It is well settled that a noncompetitive oil and gas lease offer may be rejected for failure to disclose other parties in interest at the time of the filing of a drawing entry card or because of a multiple filing. Woods Petroleum Corp., 55 IBLA 348 (1981); Vickie J. Landis, 54 IBLA 25 (1981). However, a decision rejecting a lease offer on such grounds must be supported by facts of record. Mere conclusory statements will be accorded no weight. Max B. Lewis, 56 IBLA 293 (1981); Amoco Production Co., 53 IBLA 72 (1981); cf. United States v. Casey, 22 IBLA 358 (1975).

The appropriate course in such circumstances is to set aside the BLM decision and remand the case for further consideration and preparation of a proper record. Max B. Lewis, supra; Amoco Production Co., supra. Only if it is finally determined that appellant has complied with the regulations governing the simultaneous filing program will issuance of an oil and gas lease be appropriate.

2/ In a document entitled "Certification of Qualifications to Hold a Federal Oil and Gas Lease (Simultaneous)," signed by appellant and dated May 8, 1980, appellant certified that he was the sole party in interest with respect to lease offer M 45274(ND), and that he had no interest in any other lease offer filed with respect to parcel MT 94. In an affidavit dated June 3, 1980, appellant stated that after the drawing he had assigned his rights under lease offer M 45274(ND) "to Lynn and Associates, Inc., a Texas corporation owned totally by myself and my wife, Carolle M. Lynn." On June 6, 1980, an assignment dated June 5, 1980, as between Lynn Associates, Inc., and Reading & Bates Petroleum Co. (Reading), was filed with BLM. The assignment was never approved by BLM and on Feb. 3, 1981, Reading requested that the assignment be withdrawn from consideration.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and the case remanded to BLM for further consideration and preparation of a proper record.

C. Randall Grant, Jr.
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Douglas E. Henriques
Administrative Judge

